

February 13, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON
APPLICATION FOR PRELIMINARY PLAT APPROVAL**

SUBJECT: Department of Development and Environmental Services File No. **L96P0029**

EASTLAND MEADOWS
Preliminary Plat Application

Location: Lying in the northwest corner of the Southeast 221st Place and
132nd Avenue Southeast intersection

Applicant: Thomas Horton, Eastland Meadows, LLC
1718 SE 7th Court, Renton, WA 98055

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application or petition submitted:	November 7, 1996
Notice of complete application:	December 5, 1996

EXAMINER PROCEEDINGS:

Hearing Opened:	February 10, 1998
Hearing Closed:	February 10, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Surface water drainage
- Recreation areas
- Open space
- Sensitive area protection (wetlands)

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer:	Thomas Horton 1718 SE 7 th Court Renton, WA 98058
Engineer:	Touma Engineers West Valley Executive Park 6632 South 191 st Place, Ste E-102 Kent, WA 98032
Location:	Lying in the northwest corner of the Southeast 221 st Place and 132 nd Avenue Southeast intersection
STR:	SE/SE 09-22-05
Zoning:	R-4
Acreage:	3.45 acres
Number of Lots:	13
Density:	3.77 units per acre
Typical Lot Size:	Ranges from approximately 5,900 to 10,700 square feet
Proposed Use:	Detached single-family residential
Sewage Disposal:	Soos Creek Water & Sewer
Water Supply:	Soos Creek Water & Sewer
Fire District:	No. 37 (Kent)
School District:	No. 415 (Kent)
Complete Application Date:	December 5, 1996

 2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the February 10, 1998, public hearing are found to be correct and are incorporated herein by this reference.

 3. Although the Applicant's Level One Drainage Analysis (which evaluated off-site drainage flow from this development) found no identified problem areas within a quarter mile of the site, the owner of Tax Lot 153, lying on the south side of Southeast 218th Place, has experienced enlargement of the Soos Creek Wetland No. 75 onto his property as a consequence of increased development in the surrounding area.
- Storm water leaving the subject property flows in a westerly direction for approximately 150 feet to a broad swale within Soos Creek Wetland No. 75 which flows to the north. Adjacent to the subject property the drainage swale becomes broader. About 500 feet north of the site there is a culvert crossing under Southeast 218th Place, from which the drainage continues north along the east edge of Wimbleton Ridge in a swale that is approximately two to three feet wide and approximately 18 inches deep. The Applicant's engineer did not note any blockage of the Southeast 221st Place culvert or any other impediment to the flow of surface water northerly from the subject property. However, there is no indication that the problem identified by the owner of Tax Lot 153 was addressed.

4. A wetland report dated October 23, 1996, and a conceptual buffer restoration and enhancement plan was prepared for this plat by Watershed Dynamics, Inc. The objective of the report was to define and delineate potential wetland areas on site. According to the King County Sensitive Areas Folio, Soos Creek Wetland No. 75 meets the criteria for a Class 2 rating. As stated above, this wetland lies outside the plat along its west property line.

The wetland report also identified two small wetlands on the site. One of these isolated wet areas is less than 2,500 square feet in size, and is not regulated by King County Code 21A.24. The second small isolated Class 3 wetland is less than 5,000 square feet in size. It is proposed to be filled and mitigated for elsewhere on site, as allowed by KCC 21A.24.

The required 50 foot wetland buffer from Soos Creek Wetland No. 75 extends onto the site. Buffer averaging in accordance with KCC 21A.24 is a component of the Applicant's site design. The proposed buffer restoration and enhancement plan is required as mitigation for filling the isolated Class 3 wetland as well as for using buffer averaging. A DDES wetland specialist reviewed the study and concurred with the findings and the buffer averaging proposal (see final approval Condition No 17).

5. Soos Creek Elementary School is located approximately 800 feet west and north of the subject property. Sidewalks and pedestrian tracts provide safe and easy access to play areas located on the school grounds. The King County Parks Division has agreed to the payment of a fee in lieu of recreation space as authorized by KCC 21A.14.185.

The requirement for play areas can be waived pursuant to the exception set forth in KCC 21A.14.190 for subdivisions within one quarter mile of developed recreation areas which are accessible without crossing arterial streets.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval required below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the

Applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

5. Additional analysis of the effect of surface water runoff from the subject property on Tax Lots 65 and 153, adjacent to Southeast 218th Place, is necessary to assure that the wetland area on those lots is not enlarged as a result of additional runoff from the subject property.

DECISION:

The proposed subdivision of Eastland Meadows, as revised and received December 16, 1997, is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density (and minimum density) of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The Applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 8041, as amended.
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.

- c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application for any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

8. The following conditions specifically address drainage issues for this particular plat:

- a. Core Requirement No. 3: Runoff Control.

Storm water runoff control shall be provided using standard detention design criteria outlined in the drainage manual. As specified in section 4.5, roof drain water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable.

Biofiltration of storm water is also required for water quality enhancement. Runoff control facilities shall be located in a separate tract and dedicated to King County. The proposed bioswale located adjacent to the wetland buffer shall also be shown within a King County drainage tract. During design and construction of the proposed detention pond and bioswale, consideration shall be given to preserving as many trees as possible adjacent to the wetland. The tree retention plan received December 16, 1997 shall be used to evaluate the feasibility of preserving the identified trees. Notes shall be provided on the construction plans to indicate the tree retention requirements.

- b. Special Requirement No. 4: Adopted Basin or Community Plans.

The proposed plat lies within the Soos Creek Basin Plan. No special retention/detention requirements are specified for this project location. The Soos Creek Community Plan contains P-Suffix conditions related to clearing, grading, and tree retention. The applicable requirements for these conditions shall be addressed on the final engineering plans. (See plat condition no. 19.)

- c. A permit from the Washington State Department of Fish and Wildlife may be required for the storm water outfall. The Applicant shall contact the state agency and submit any required permits to King County prior to engineering plan approval.

New condition:

- d. The engineering plans shall include analysis of the flow of surface water north in order to address any ponding or inundation on the south side of Southeast 218th Place as it may affect Tax Lots 153 and 65. The specific analysis required, and any mitigating measures necessary, shall be established by the DDES review engineer.

9. The following conditions outline the required road improvements:

- a. During preliminary review, the Applicant submitted a road variance application (File No. L97V0029) regarding sight distance at the proposed intersection with SE 221st Place. The variance request was denied for sight distance in the westerly direction. To address the design requirements, the Applicant has moved the entrance to the subdivision easterly to achieve the required 490 feet of entering sight distance. The final engineering plans shall demonstrate compliance with this requirement.
 - b. 132nd Ave SE shall be improved along the frontage of the property as an urban principle arterial. Preliminary review indicates that the curb line shall be constructed 33 feet from centerline which may include requirements for a bike lane. This determination will be confirmed by DDES and the King County Roads Division during final review of the engineering plans. Appropriate pavement tapers for transition to the existing roadway will also be required at the north property line.
 - c. Twenty feet of right-of-way shall be dedicated along 132nd Avenue SE to provide 50 feet from centerline.
 - d. 132nd Avenue SE is designated an arterial street which may require designs for bus zones and turnouts. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - e. Frontage improvements along SE 221st Street are not required since the existing roadway includes urban improvements. A minimum right-of-way line radius of 25 feet is required at the intersection with 132nd Ave SE.
 - f. The on-site road shall be improved as an urban subaccess street. The design engineer shall evaluate the soils within the on-site wetland areas and provide any required specifications for soil removal or special roadway designs.
 - g. The panhandle for lot 4 shall be designed and improved as a joint use driveway tract, which serves lots 4 and 5, see KCRS 3.01(C.3). The serving lots shall have undivided ownership of the tract and be responsible for its maintenance. Improvements shall include an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
 - h. An access easement shall be provided within Tract A to serve proposed lot 3.
 - i. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
 - j. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
10. Access to lot 11 shall be reconstructed so that access is provided from the internal cul-de-sac. The existing driveway on 132nd Avenue Southeast shall be abandoned prior to recording the final plat.

- 11 All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 12 The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
13. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
14. There shall be no direct vehicular access to or from 132nd Avenue Southeast from those lots that abut it.
15. The planter islands (if any) within the cul-de-sac shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
16. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the

sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

17. Preliminary plat review has identified the following specific sensitive area requirements that apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant:
 - a. The Class II wetland (Soos Creek Wetland #75) shall have a buffer width of 50 feet, measured from the wetland edge. Buffer averaging may be employed, so long as the total amount of the buffer area on site is not reduced and better resource protection is achieved.
 - b. The wetland and their respective buffer shall be placed in a Sensitive Area Tract (SAT).
 - c. A minimum building setback line of 15 feet shall be required from the edge of the SAT.
 - d. A final enhancement/mitigation plan must be submitted for review and approval by DDES along with the engineering plans for this proposal. The plan must include proposed final grades, hydrology, construction and monitoring notes and a detailed planting plan, showing species, size and location.
 - e. Mitigation required pursuant to this project must be completed prior to final approval. If this is not possible, due to seasonal requirements or other circumstances beyond the Applicant's control, the Applicant may post a performance bond which guarantees that all required mitigation measures will be completed within one-year of plat construction.
 - f. Once the mitigation work is completed to DDES' satisfaction, the performance bond may be replaced by a maintenance bond in a form and amount sufficient to guarantee satisfactory workmanship, materials, and performance of the approved plan for a period of five years.
 - g. Upon satisfactory completion of the final monitoring inspection, DDES staff shall release the maintenance bond. If the project has not met the established performance standards at the end of the monitoring period, the Applicant shall be responsible for the preparation and implementation of a contingency plan to remedy the situation.
 - h. The wetland and sensitive area tract shall be delineated and signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.
18. A fee-in-lieu of recreation space shall be paid by the Applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 21A.14.185.

19. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the open space area(s).
20. The following conditions shall apply to implement the P-suffix conditions to this property:
- a. **Clearing and Grading.** The Applicant has the option to clear the individual building envelopes during construction of the roads and utilities or upon approval of the individual building permit. If the building envelopes are to be cleared during road and utility construction, the individual building envelopes shall be shown on the engineering plans and limited to the following maximum area (1991 Soos Creek Community Plan, page 148):

1) <u>Lot Size (in sq. ft.)</u>	<u>Building Envelope</u>
Less than 5,000	55% of the lot size
5,000-9,000	45% of the lot size
9,001-15,000	35% of the lot size
Greater than 15,000	5,000 square feet
 - 2) The clearing limits for each building envelope shall be clearly marked or flagged on each lot and inspected prior to any clearing.
 - b. **Significant Tree Retention.** The Applicant shall demonstrate compliance with the P-suffix conditions regarding significant tree retention prior to engineering plan approval (1991 Soos Creek Community Plan, pages 152-155).
 - c. **Seasonal Clearing.** Clearing and grading shall not be permitted between November 1 and March 31, unless otherwise approved by DDES (1991 Soos Creek Community Plan, pages 149-150).

ORDERED this 13th day of February, 1998.

James N. O'Connor
King County Hearing Examiner

TRANSMITTED this 13th day of February, 1998, to the parties and interested persons listed on Attachment A.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before February 27, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before March 6, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE FEBRUARY 10, 1998 PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0029 –
EASTLAND MEADOWS:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Rich Hudson, Peter Dye, Tom Touma, and Mike Bailly.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L96P0029
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the February 10, 1998 public hearing
- Exhibit No. 3 Application dated November 7, 1996
- Exhibit No. 4 Environmental Checklist dated May 22, 1996
- Exhibit No. 5 Declaration of Non-Significance dated December 16, 1997
- Exhibit No. 6 Affidavit of Posting indicating January 10, 1998 as date of posting and January 7, 1998 as date affidavit received by Department of Development and Environmental Services
- Exhibit No. 7 Plat map dated December 16, 1997
- Exhibit No. 8 Land use map 615E & 637W
- Exhibit No. 9 Assessor maps SE ¼ 9-22-5
- Exhibit No. 10 School pedestrian inventory
- Exhibit No. 11 Washington State Department of Transportation letter dated January 9, 1998
- Exhibit No. 12 Washington State Department Fish & Wildlife letter dated December 24, 1997
- Exhibit No. 13 Letter from Gary Noel dated January 31, 1997
- Exhibit No. 14 Letter from Clarence Vanatta dated December 13, 1996
- Exhibit No. 15 Letter from Gary Noel received December 17, 1996
- Exhibit No. 16 Department of Development and Environmental Services Staff Report wording correction for Section F, paragraph 3
- Exhibit No. 17 Copy of Short Plat 474068

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